

III. REMARKS / ARGUMENTS

A. SUMMARY OF THE AMENDMENTS

Fig. 1 has been amended to incorporate a suggestion made by the Examiner
(see section **B.** below)

The specification has been amended to correct a typographical error (see
section **C.** below)

Claims 1-5, 7, 9-10, 12 and 27-31 have been cancelled. Claims 6, 8, 11, 13-
26 and 32-41 are pending. (*Arguments in support of the pending claims are
presented in sections **E.** through **H.** below*)

Claims 6 and 8 have been placed in independent form and incorporate all the
limitations of the former base claim.

Claim 22 has been placed in independent form and incorporates a limitation
of the former base claim.

Claims 11, 19, 20, 21, 23 have been amended to change the claim
dependency.

Claims 32-41 are new.

No new subject matter has been added by way of the present amendment.

B. OBJECTION TO THE DRAWINGS

On page 2 of the Office Action, the Examiner has objected to the drawings and has requested that certain unlabeled circles and boxes be provided with descriptive text labels. It is respectfully submitted that this objection has been overcome by way of amendment. Specifically, in Fig. 1, items 110, 120, 16 and 14, have been labeled "input", "output", "interface" and "switch", respectively.

C. OBJECTION TO THE SPECIFICATION

On page 3 of the Office Action, the Examiner has objected to the specification because the term "task T3" appearing on page 20, lines 21 and 23 is inconsistent with the description details and the drawing. In response, the applicant has made appropriate correction to this portion of the specification.

D. REJECTION OF CLAIMS 1-31 UNDER 35 U.S.C. 112

On page 3 of the Office Action, the Examiner has rejected claims 1-31 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention. In response, the applicant traverses the rejection and respectfully submits that the claims as amended meet the requirements of 35 U.S.C. 112, second paragraph.

Specifically, with regard to independent claims 6 and 8, which are based on former claim 1 that was explicitly rejected by the Examiner, the condition for the feature of advancing execution of the selected task has been expressed with "OR".

Regarding claim 22, the language of this claim has been clarified.

Finally, the Examiner's rejection of claim 28 on page 4 of the Office Action is moot in view of the cancellation of this claim from the application.

E. REJECTION OF CLAIMS 1, 2, 7, 11-18, 20, 23-26, 28 and 30-31 UNDER 35 U.S.C. 102

On page 4 of the Office Action, the Examiner has rejected claims 1, 2, 7, 11-18, 20, 23-26, 28 and 30-31 under 35 U.S.C. 102(e) as being anticipated by Peters *et al.* U.S. Patent 6,385,637 (hereinafter referred to as Peters). The Examiner's rejection of claims 1, 2, 7, 12, 28 and 30-31 is moot in view of the cancellation of these claims from the application. In addition, the Examiner's rejection of claims 11, 20 and 23 is moot in view of the change in the dependency of these claims so as to depend on claims rejected on other grounds (*see later in this response*). Finally, the Examiner's rejection of claims 13-18, 24-26 is moot in view of the fact that these claims are dependent on claims rejected on other grounds (*see later in this response*).

F. REJECTION OF CLAIMS 21, 27 and 29 UNDER 35 U.S.C. 103

On page 6 of the Office Action, the Examiner has rejected claims 21, 27 and 29 under 35 U.S.C. 103(a) as being unpatentable over Peters *et al.* U.S. Patent 6,385,637 (hereinafter referred to as Peters). The Examiner's rejection of claims 27 and 29 is moot in view of the cancellation of these claims from the application. In addition, the Examiner's rejection of claim 21 is moot in view of the change in the dependency of this claim so as to depend on a claim rejected on other grounds (*see below in this response*).

G. REJECTION OF CLAIMS 3-6, 8-10 and 19 UNDER 35 U.S.C. 103

On page 7 of the Office Action, the Examiner has rejected claims 3-6, 8-10 and 19 under 35 U.S.C. 103(a) as being unpatentable over Peters *et al.* U.S. Patent 6,385,637 (hereinafter referred to as Peters) in view of Shi *et al.* U.S. Patent 6,757,897 (hereinafter referred to as Shi). The Examiner's rejection of claims 3-5 and 9-10 is moot in view of the cancellation of these claims from the application. Regarding claims 6, 8 and 19, the applicant traverses the rejection and respectfully submits that the claims as amended are in allowable form as set forth herein below. In addition, for completeness, it is respectfully submitted that claims 11, 13-18 and 20-21, as well as new claims 32-41, all of which are dependent either directly or indirectly on claim 6 or claim 8 as a result of the present amendment, are also in allowable form as set forth herein below.

Independent Claim 6

The Examiner has conceded that Peters does not clearly disclose the additional limitation as claimed, i.e., "selecting an incomplete task from the set on the basis of an expected duration for that task". The Examiner has referred to Shi to show an alleged teaching of this additional limitation. However, it is respectfully submitted that Shi does not disclose "selecting an incomplete task [...] on the basis of an expected duration for that task" (i.e., on the basis of an expected duration of the selected task).

Specifically, referring to the various passages cited by the Examiner:

In column 11, lines 40-50, Shi teaches establishing a time constraint based on the needs of the *interrupted* task → not the *selected* task.

In column 15, lines 25-34, Shi again teaches a time constraint (yield time) based on the interrupted task → not the selected task.

In column 21, lines 44-54, Shi teaches that critical "class 1" tasks will be relatively unaffected by other tasks due to their high priority. Shi mentions that these tasks consume little CPU time, and then uses this to suggest, in lines 51-54, that they can be expected *in total* to consume little time. Thus, in lines 54-57, Shi teaches that "class 1" tasks can thus be allowed to run to completion. It follows that, in Shi, such tasks will never be interrupted (for placement in the "yield queue" of column 15, line 18), and thus will never be "selected" from the list of incomplete tasks by any mechanism that Shi teaches for his yield scheduler. Stated differently, Shi does not contemplate any class 1 task ever being "selected" from a set of incomplete tasks, much less so being selected "on the basis of an expected duration for that task".

In view of the above, it is Applicant's respectful submission that the cited art fails to teach or suggest the limitation of "selecting an incomplete task from the set on the basis of an expected duration for that task", thus supporting a contention that there is at least one criterion required for establishing a *prima facie* case of obviousness in accordance with MPEP 706.02(j) which has not been satisfied¹. The Examiner is therefore respectfully requested to withdraw his rejection of claim 6, which is believed to be in condition for allowance.

Independent Claim 8

The Examiner has conceded that Peters does not clearly disclose the additional limitation as claimed, i.e., "selecting an incomplete task from the set on the basis of a number of times that the task has been previously suspended". The Examiner has referred to Shi to show an alleged teaching

¹ For the Examiner to establish a *prima facie* case of obviousness, three criteria must be considered: (1) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings, (2) there must be a reasonable expectation of success, and (3) the prior art references must teach or suggest all of the claim limitations. MPEP §§ 706.02(j), 2142 (8th ed.).

of this additional limitation. However, it is respectfully submitted that Shi does not disclose "selecting an incomplete task [...] on the basis of a number of times that the task has been previously suspended".

Specifically, neither the passage referred to by the Examiner nor any other passage of Shi attributes any importance to the number of times that a task has been suspended, and certainly does not disclose "selecting an incomplete task [...] on the basis of a number of times that the task has been previously suspended".

In view of the above, it is Applicant's respectful submission that the cited art fails to teach or suggest the limitation of "selecting an incomplete task from the set on the basis of a number of times that the task has been previously suspended", thus supporting a contention that there is at least one criterion required for establishing a *prima facie* case of obviousness in accordance with MPEP 706.02(j) which has not been satisfied. The Examiner is therefore respectfully requested to withdraw his rejection of claim 8, which is believed to be in condition for allowance.

Dependent Claim 19

Claim 19 is dependent on claim 6 and therefore includes all the limitations of claim 6, including those already shown to be absent from Peters and Shi. Therefore, for the same reasons as those set forth in support of claim 6, it is respectfully submitted that claim 19 is in allowable form and the Examiner is respectfully requested to withdraw his rejection of claim 19.

Dependent Claims 11, 13-18 and 20-21

Each of claims 11, 13-18 and 20-21 is either directly or indirectly dependent on claim 6 and therefore includes all the limitations of claim 6, including those already shown to be absent from Peters and Shi. Therefore, for the

same reasons as those set forth in support of claim 6, it is respectfully submitted that claims 11, 13-18 and 20-21 are in allowable form and the Examiner is respectfully requested to withdraw his rejection of claims 11, 13-18 and 20-21.

New Claims 32-41

Each of claims 32-41 is either directly or indirectly dependent on claim 8 and therefore includes all the limitations of claim 8, including those already shown to be absent from Peters and Shi. Therefore, for the same reasons as those set forth in support of claim 8, it is respectfully submitted that claims 32-41 are in allowable form.

H. REJECTION OF CLAIM 22 UNDER 35 U.S.C. 103

On page 9 of the Office Action, the Examiner has rejected claim 22 under 35 U.S.C. 103(a) as being unpatentable over Peters *et al.* U.S. Patent 6,385,637 (hereinafter referred to as Peters) in view of Dugan *et al.* U.S. Patent 6,363,411 (hereinafter referred to as Dugan). The applicant traverses this rejection and respectfully submits that claim 22 as amended is in allowable form as set forth herein below. In addition, for completeness, it is respectfully submitted that claims 23-26, which as a result of the present amendment are dependent either directly or indirectly on claim 22, are also in allowable form as set forth herein below.

Claim 22

The Examiner has conceded that Peters does not clearly disclose the additional limitation as claimed, which now reads, "removing an existing incomplete task from the set when a newer version of the existing incomplete task is added to the set". The Examiner has referred to Dugan to

show an alleged teaching of this additional limitation. However, the applicant respectfully disagrees.

Specifically, in column 22, lines 32-46, and particularly at line 42, Dugan teaches the *completion of existing service processing* of old data. Dugan does **not** disclose removing an older version of a task *before that older version's completion*. In summary, neither the passages referred to by the Examiner nor any other passage of Dugan disclose the removal of an older, incomplete, version of a task when a newer version is added to the set of incomplete tasks. Hence, it will be apparent that at least one limitation of claim 22 is not taught or suggested in the cited art.

In view of the above, it is Applicant's respectful submission that the cited art fails to teach or suggest the limitation of "removing an existing incomplete task from the set when a newer version of the existing incomplete task is added to the set", thus supporting a contention that there is at least one criterion required for establishing a *prima facie* case of obviousness in accordance with MPEP 706.02(j) which has not been satisfied. The Examiner is therefore respectfully requested to withdraw his rejection of claim 8, which is believed to be in condition for allowance.

Claims 23-26

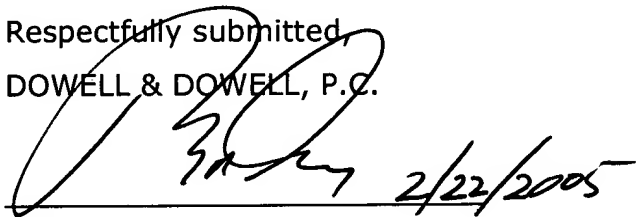
Each of claims 23-26 is dependent on claim 22 and therefore includes all the limitations of claim 22, including those already shown to be absent from Peters and Dugan. Therefore, for the same reasons as those set forth in support of claim 22, it is respectfully submitted that claims 23-26 are in allowable form and the Examiner is respectfully requested to withdraw his rejection of claims 23-26.

IV. CONCLUSION

In view of the foregoing, Applicant is of the view that claims 6, 8, 11, 13-26 and 32-41 are in allowable form. Favourable reconsideration is requested. Early allowance of the Application is earnestly solicited.

If the application is not considered to be in full condition for allowance, for any reason, the Applicant respectfully requests the constructive assistance and suggestions of the Examiner in drafting one or more acceptable claims pursuant to MPEP 707.07(j) or in making constructive suggestions pursuant to MPEP 706.03 so that the application can be placed in allowable condition as soon as possible and without the need for further proceedings.

Respectfully submitted,
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